

Notice of Allowability

Application No.

09/667,737

Applicant(s)

HANSEN, JAMES R.

Examiner

Art Unit

Yicun Wu

2165

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to rice filed 8/3/2006.
2. ☒ The allowed claim(s) is/are 1-3, 5-13, 15-26, 28-36, 38-45, 47-55, 57-61, 63, 64, 68, 69, 71-75, 78, 84-86, 89, 95-97 and 100.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date 8/3/06 9/14/06
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material

5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☐ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

JEFFREY GAFFIN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

III. DETAILED ACTION

1. Claims 1-3,5-13,15-26,28-36,38-45,47-55,57-61,63,64,68,69,71-75,78,84-86,89,95-97 and 100 are presented for examination.

Examiner's Remarks

2. Applicant's RCE filed 8/3/2006 is acknowledged.

IDS

3. An applicant's duty of disclosure of material and information is not satisfied by presenting a patent examiner with "a mountain of largely irrelevant [material] from which he is presumed to have been able, with his expertise and with adequate time, to have found the critical [material]. It ignores the real world conditions under which examiners work." Rohm & Haas Co. v. Crystal Chemical Co., 722 F.2d 1556, 1573 [220 USPQ 289] (Fed. Cir. 1983), cert. denied, 469 U.S. 851 (1984). (Emphasis in original). Patent applicant has a duty not just to (disclose pertinent prior art references but to make a disclosure in such way as not to "bury" it within other disclosures of less relevant prior art; See Golden Valley Microwave Foods Inc. v. Weaver Popcorn Co. Inc., 24 USPQ2d 1801 (N.D Ind. 1992); Molins PLC v. Textron Inc., 26 USPQ2d 1889, at 1899 (D.Del. 1992); Penn Yan Boats, Inc. v. Sea Lark Boats, Inc. et al., 175 USPQ 260, at 272 (S.D. Fl- 1972).

It is impractical for the examiner to review the references thoroughly with the number of references cited in the case. By initialing each of the cited references on the accompanying 1449 forms, the examiner is merely acknowledging the submission of the cited references and merely indicating that only a cursory review is made of the cited references.

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Conclusion

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yicun Wu whose telephone number is 571-272-4087. The examiner can normally be reached on 8:00 am to 4:30 pm, Monday -Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Gaffin can be reached on 571-272-4146. The fax phone numbers for the organization where this application or proceeding is assigned are 571-273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-2100.

Yicun Wu
Patent Examiner
Technology Center 2100

October 10, 2006